EX PARTE OR LATE FILED

AT&T

E. E. Estey
Government Affairs Vice President

Suite 1000
1120 20th Street, NW
Washington, DC 20036
202 457-3895
FAX 202 457-2545

DOCKET FILE COPY ORIGINAL

November 6, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

RECEIVED

NOV - 7 1996

Federal Communications Commission
Office of Secretary

RE: Ex Parte Presentation, CC Docket No. 96-128

Dear Mr. Caton:

Today I delivered the attached article to L. Belvin of Commissioner Quello's office, D. Gonzalez of Commissioner Chong's office, J. Casserly of Commissioner Ness' office, and M. B. Richards, Deputy Chief of the Common Carrier Bureau, to reinforce points previously made in AT&T's petitions in the above-captioned docket.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(1) of the Commission's rules.

Sincerely,

E Estey

attachment

copy of letter without attachment to:

L. Belvin
D. Gonzalez
J. Casserly
Mary Beth Richards

No. of Copies rec'd 0+1
List ABCDE

FCC Grants Payphone Owners $192,000,000

Sept. 20, 1996, may be remembered by the payphone industry as fondly as July 4, 1776. On that recent date, the Federal Communications Commission released a Report and Order in its "payphone compensation" investigation which awards independent payphone providers compensation for access code calling and 800 subscriber calls in the total amount of $192 million over the next 12 months. The FCC also took steps to put independent payphones on an equal footing with local exchange carrier payphones and to establish a nationwide local coin rate of 35 cents per call. It's impossible to imagine a more favorable outcome for payphone interests.

The fact that compensation was awarded surprised no one. That was decided by the Congress in the Telecommunications Act of 1996. The amount of the compensation, on the other hand, was far higher than was expected by anyone other than the truest of believers in the payphone industry. This ruling undoubtedly represents the biggest victory ever scored by payphone companies.

To fully appreciate the magnitude of the $192 million grant to independent payphone providers, it must be understood that it is virtually *all profit*. The calls for which the IPPs are being paid are already being carried today and the added expense of implementing and administering the per call tracking system was imposed on interexchange carriers. As a result, almost no additional costs are to be covered by IPPs, other than possibly hiring a Brinks truck to carry their compensation checks.

IPPs today are already operating profitably with $6 per month per phone in compensation. The addition of another $39.85 in pure profit will provide them with a huge increase in their profit margins.

Coupled with an FCC-mandated increase in average local coin rates of 40 percent (from 25 cents to 35 cents per call), the Report and Order probably just made IPPs the most profitable business in telecommunications.

To fully appreciate the magnitude of the $192 million grant to independent payphone providers, it must be understood that it is virtually all profit.

For example, Peoples Telephone told the FCC that its payphones average 665 calls per month, with 86 of those being subscriber 800 calls and 43 being dial-around access code calls. Since further information was not in the FCC Report and Order, assume that 43 of the remaining 536 calls in a month were 0+ long distance (representing a 50 percent dial around rate) and that the average commission on 0+ calls is $1.50 per call. That gives 0+ revenues of $64.50 per phone per month. Assuming the remaining 491 calls are local calls at 25 cents per call, local revenues would be $122.75. Existing compensation arrangements add $6 per phone per month. In this hypothetical situation, gross revenues for the payphone prior to the FCC's actions would be $193.25 per month.

Since it is apparent that IPPs are operating profitably today, this hypothetical $193.25 per month per phone probably renders a reasonable profit. Now, add to this amount a 10 cent per call increase in local rates (10 cents x 491 calls = $49.10) and a $39.85 increase in compensation. The result? An increase of $88.95 in monthly per phone revenue without any increase in call volumes or cost. The FCC Report and Order has virutally put IPP profitability off the charts.

The FCC's compensation decision is built on its prior order awarding payphone owners $6 per month per phone for access code calls which are "dialed-around" the payphone's presubscribed carrier. There, the FCC concluded that 40 cents per call was a fair compensation amount and that the average payphone was used for 15 such calls each month. Multiplying 15 times 40 cents is where the $6 per phone per month in total compensation figure comes from. This per phone scheme was utilized because the FCC had determined that the more accurate per call method was technically infeasible.

In the Sept. 20 Report and Order, the FCC chose 35 cents per call rather than 40 cents as a fair per call compensation level. The rationale for this choice was that 35 cents is the marketplace-established local coin rate. While this lowered the per call compensation rate from 40 cents to 35 cents, the FCC also concluded that the average payphone experiences 131 access code and subscriber 800 calls each month. This number obviously is a significant increase over the 15 calls per month previously assumed by the FCC, and was based on data submitted by payphone companies. Multiplying 131 times 35 cents leads to compensation of $45.85 per phone per month, an increase of 764 percent. Using the FCC's estimate of 350,000 independent payphones, this compensation obligation totals over $16 million per month, or $192.57 million per year.

This per phone method of calculating compensation is to expire on October 1, 1997, when it will be replaced by a per call scheme. The interim one-year period is meant to permit IXCs to implement per call tracking systems or prepare to block 800 calls received from payphones. After October 1, 1997, when per call compensation begins, LEC payphones also will be eligible for compensation.

The source of this $192 million in interim compensation for independent payphone owners will be the 22 IXCs with annual revenues in excess of $100 million. As with the existing system, each carrier's payment obligation is determined by its proportionate share of total group revenues. According to the FCC, AT&T's share of the interim compensation (including Alascom) will be $26.21 per phone per month, or approximately $9 million per month ($110 million for the 12 month period). MCI's obligation is $8.82 per phone ($3 million per month) and Sprint's is $4.97 per phone ($1.7 million per month). The remaining $5.85 per month is to be divided among the other 18 companies in amounts ranging from $2.49 per phone (WorldCom) to seven cents per phone (American Network Exchange).

Both AT&T and Sprint already have developed and deployed the technology necessary to track payphone access code calls. Based on that ability, those two carriers had received FCC waivers to avoid the per phone payment schedule and pay 25 cents per call. Until October 1, 1997, those waivers are now revoked, requiring AT&T and Sprint to resume their payment on the per phone method.

The FCC's decision to mandate local coin rates and increase them to 35 cents per call also surprised many observers. The Commission interpreted the Act as a jurisdictional mandate to oversee local coin rates. The agency determined that those rates should be deregulated and set by the marketplace rather than by government action. The FCC then went on to conclude that the current market-based local coin rate is 35 cents per call. It directed state public utility commissions to permit market-based pricing of local coin rates and to remove any restrictions on payphone market entry and exit. Presumably this means the state COCOT certification process will become little more than a registration.

The September 20 Report and Order also took other important actions. After many years of deliberation, the Commission decided to deregulate LEC payphones and treat them in the same manner as independent payphones. The LECs were granted one year, until October 1, 1997, in which to take the actions necessary to prepare for payphone deregulation. These involve revising tariffs and other arrangements to remove the interstate and intrastate carrier access charge, payphone service elements and payments, to terminate interstate and intrastate payphone subsidies from basic exchange services, and to comply with nonstructural safeguards for Bell Company payphones. When those items are completed and per call compensation is in place, the 1.5 million LEC payphones also will be eligible to receive compensation for access code and subscriber 800 calls. If the FCC's surrogate measure of compensation is correct, this will increase total annual payphone compensation payments to more than $1 billion (yes, billion).

In addition to being required to pay the compensation amounts, IXCs are required by the Report and Order to develop and implement per call tracking systems by October 1, 1997. The FCC's rationale for this assignment of burden and expense is that the IXCs are the "economic beneficiaries" of the access code and subscriber 800 calls. This proposition is not further explained by the FCC. The reasoning, however, which concludes that the IXCs are the economic beneficiaries of a system which will require them to pay out over $1 billion per year for something they've been getting for free, is difficult to comprehend. This idea seems tantamount to converting a previously free interstate highway to a private toll road and concluding that the beneficiaries are the commuters newly required to pay.

To compound the injury to IXCs, the Report and Order authorizes the Bell Companies to become involved in the process of selecting the interLATA carrier serving their payphones. While the ultimate decision will remain with the premises owner, there is little doubt that the Bells will quickly obtain agency agreements with thousands of premises owners. The BOCs will then choose an IXC that will agree to transfer all the payphones to the BOCs' own long distance operation as soon as one is authorized by the FCC. Don't expect the BOCs to enter into any long-term arrangements with IXCs for these payphones. ☎